

Cr.M.P. No. 4711 of 2001

Cr. M.P. No. 1754 of 1994(R)

Cr. M.P. No. 5510 of 1993(R)

R. Khanna Versus The State of Jharkhand & Anr.

CORAM : HON'BLE MR. JUSTICE H. C. MISHRA

For the State : Mr. Pankaj Kumar, A.P.P.

6/ 30.07.2014 Heard learned counsel for the petitioners and learned counsel for the State. No one appears on behalf of opposite party No.2, in spite of service of notice.

2. In Cr.M.P. No. 4711 of 2001 and Cr. Misc. No.1754 of 1994(R), the petitioners have challenged the order dated 17.9.1993 passed by learned Chief Judicial Magistrate, Dhanbad, whereby cognizance has been taken for the offence under Section 29 of the Industrial Disputes Act against the petitioners in I.D. Case No. 682 of 1993. The petitioners have also prayed for quashing the entire criminal proceeding against them in the said case.

3. In Cr.Misc. No. 5510 of 1993(R), the petitioner has challenged the order dated 11.10.1993 passed by learned Judicial Magistrate, 1st Class, Dhanbad, in the same case, whereby the application filed by the petitioner under Section 205 of the Cr.P.C., has been rejected by the Court below.

4. I.D. Case No. 682 of 1993 was filed by the State represented by the Labour Enforcement Officer (Central), Katrasgarh, in the district of Dhanbad, against the petitioners for the offence under Section 29 of the Industrial Disputes Act for non-implementation the Award dated 14.8.1992 in Reference Case No. 110 of 1990, passed by the CGIT, Dhanbad No.1.

5. It is submitted by learned counsel for the petitioners that the said award has already been set aside by a Division Bench of this Court by Judgment dated 27th June 2014 passed in L.P.A. Nos. 368 of 2013 and 371 of 2013. The said Judgment has been brought on record by way of supplementary affidavit, copy of which was served to the counsel for the State also. Learned counsel has accordingly, submitted that in view of the Judgment passed by the Division Bench of this Court setting aside the award in question, nothing remains to be decided in these cases.

6. Learned counsel for the State, on the other hand, has submitted that the opposite parties may challenge the Judgment in the Hon'ble Supreme Court and accordingly, the proceedings against the petitioners cannot be quashed at this stage.

7. Having heard learned counsels for both the sides and upon going through the record, I find that since the very award, for non-implementation of which, the prosecution has been launched against the petitioners, has been set aside by this Court by Judgment dated 27th June 2014 in L.P.A. Nos. 368 of 2013 and 371 of 2013, the prosecution against the petitioners cannot be allowed to be continued. It goes without saying that if the Judgment of this Court is set aside and the award is maintained by the Supreme Court in future, fresh action may lie against the petitioners.

8. Accordingly, the order taking cognizance dated 17.9.1993 passed by learned Chief Judicial Magistrate, Dhanbad, in I.D. Case No. 682 of 1993, is hereby, set aside and the entire criminal proceeding against the petitioners in the said case, is hereby, quashed. These criminal miscellaneous petitions are accordingly, allowed.

(H. C. Mishra, J.)